

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
SAN ANGELO DIVISION

ROBERT SCHELSKE, *et al.*,

Plaintiffs,

v.

LLOYD J. AUSTIN, III,

United States Secretary of Defense, *et al.*,

Defendants.

No. 6:22-cv-0049-H

**DEFENDANTS' NOTICE OF RESCISSION OF DOD COVID-19
VACCINATION REQUIREMENT**

Defendants hereby notify the Court that on January 10, 2023, the Secretary of Defense implemented Section 525 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (“NDAA”). *See* Pub. L. No. 117-263, § 525 (Dec. 23, 2022), 136 Stat 2395. Section 525 of the NDAA directs the Secretary, within 30 days, to rescind the August 2021 memorandum requiring vaccination of service members for COVID-19. On January 10, 2023, the Secretary signed the attached memorandum, rescinding the August 2021 mandate. *See* Exhibit A. The rescission memorandum prohibits separations based solely on refusal of the COVID-19 vaccine by service members who sought an exemption from the mandate, and directs the Services to update the records of those service members currently serving to “remove any adverse actions solely associated with denials of such requests, including letters of reprimand.” *Id.* at 1. The memorandum halts the processing of requests for exemption to the now-defunct mandate. *Id.* Additionally, the memorandum rescinds the November 30, 2021 memorandum, “Coronavirus Disease 2019 Vaccination for Members of the National Guard and the Ready Reserve.” *See* ECF No. 83-3.

Defendants intend, as suggested in the parties' January 9, 2022 filing, ECF No. 84, to confer with Plaintiffs about the scope and effect of the rescission and to submit an additional status report.

Dated: January 11, 2023

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS
Branch Director

ANTHONY J. COPPOLINO
Deputy Branch Director

/s/ Keri Berman
KERI BERMAN
JOHNNY H. WALKER (D.C. Bar #991325)
Trial Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW, Rm. 12304
Washington, D.C. 20530
Tel.: (202) 514-3183 / Fax: (202) 616-8460
Email: keri.l.berman@usdoj.gov

Counsel for Defendants